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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

COMPANY APPLICATION NO. 199 OF 2005

IN

COMPANY PETITION NO. 712 OF 1997

In the matter of Reliance
Heat Transfer Private Ltd.

1. M/s. Queensland Services,
A partnership firm having its office
at 43, Yusuf Building, Flora Fountain,
Mumbai-1, through its partner
Mr. Bharat C. Mehta.

2. Sir Mohamed Yusuf Trust,
A private trust having its office at
65, Maharshi Karve Road,
Mumbai-400 002,
through its Chairman Mr. Haroon
Alim A.R. Yusuf.

... Applicants.

Vs.

Official Liquidator,
Appointed in the matter of the Company
M/s. Reliance Heat Transfer Private Ltd.,
and having its office at 5th Floor,
Bank of India Building,
Fort, Mumbai-1. ...Respondents.

Mr.S.S.Dube i/by Mr. R.S. Mourya for the applicants.

Ms. K.V.Gautam, Dy. Official Liquidator.

Mr. Aspi Deboo, Estate Manager and C.A. of Sir Mohammed Yusuf Trust, present in person.

CORAM : ANOOP V. MOHTA,J.

DATED : 7th September, 2007.

ORAL JUDGMENT:-

1. The applicants are the owner of the premises i.e. Cabins Nos. 28/29, 38/39, third floor, Islam Building, V.N.Road, Fort, Mumbai.

2. By order dated 09/11/1998 and 01/12/1998 the company called M/s. Reliance Heat Transfer Pvt. Ltd. was ordered to be wound up and the Official Liquidator, High Court, Bombay has been appointed as a Liquidator thereof. The Official Liquidator has taken possession of the said registered office of the company i.e. the premises in question. The Office Liquidator, accordingly has sealed the registered office premises of the company, as the same was handed over by The Revenue Inspector, Collector, Mumbai, as the company has been wound up. The applicant being the owner of the premises and as the same was let out for the company M/s. Reliance Heat Transfer Pvt. Ltd., moved this application which is reproduced as under:-

a) "that the Official Liquidator be directed to unconditionally surrender and handover quite peaceful and vacant possession of the premises under his possession and control viz. Cabins Nos. 28/29, 38/39 on 3rd floor of Islam Building, 46, V.N.Road, Fort Mumbai- 400001 to the

Applicant No.1 herein on behalf of the Applicant No.2."

3. The Official Liquidator has filed its reply to the same. It appears from the record that the premises in question are lying vacant and unused for last more than a decade.

4. The applicants have filed affidavit dated 22/08/2007 to substantiate their ownership in following terms:-

. "I say that the Applicant no.2 is the owner and landlord of the Islam Building situated at 46-48, Veer Nariman Road, Fort, Mumbai and the Company i.e. M/s. Reliance Heat Transfer Pvt. Ltd., is its tenant on third floor of the said Islam Building being the Registered Office of the said Company.

. I say that the revenue record pertaining to the land and Islam Building stand in the name of Applicant No.2, Sir Mohammed Yusuf Trust. The said Islam Building has been duly assessed by the Brihan Mumbai Municipal Corporation vide Account No. A-09-005-00-8 being A-1337 and the Applicant No.2 is paying the Municipal Assessment Tax to the Municipal Authority.

Hereto annexed and marked as ANNEXURE- "I", "II" AND "III" is the copy of the property card, Bill for the payment of Municipal Assessment Tax and the receipt for the payment of Municipal Assessment Tax respectively. I further say that the Applicant No.2, Sir Mohammed Yusuf Trust is the landlord and owner of the Islam Building therefore they are entitled the possession of the premises occupied the said company, Reliance Heat Transfer Pvt. Ltd.".

5. After going through the same and as there is no objection, there is no doubt that they are the owner and the landlords of the premises in question.

6. In view of undisputed position on record as rented premises of the company in question is unused and unoccupied since long and neither the same is required by the Official Liquidator for carrying on any business of company and nor carrying out beneficiary winding up of company and as the company has already been would up, there is no point to keep such tenanted premises under the seal or in the possession of the Official Liquidator. There is no dispute as recorded above that the applicants are the owners of the premises. The said company was the tenant and

occupying the said premises and using the same as a registered office. The said premises came to be sealed in view of the order of liquidation. The Official Liquidator has also no objection to hand over the vacant possession of the premises to the applicants as there are sufficient material to justify their title and claim of possession.

7. The learned counsel appearing for the applicants, further states that on instruction of Mr. Aspi Deboo, Estate Manager and C.A. of Sir Mohammed Yusuf Trust, Mumbai, they are not claiming any arrears of rent, in fact they are waiving the arrears of rent.

8. Resultantly, the present application, on instructions, has given up the total arrears of rent as referred above, in additional affidavit dated 21st April, 2006 that was to the tune of Rs.2,26,991/- (Rupees two lacs twenty six thousand nine hundred ninety one only) as on 30/06/2000.

9. Taking all in this account, the application is allowed in terms of prayer clause (a).

10. The Official Liquidator to hand over the

possession within two weeks.

(ANOOP V. MOHTA, J.)